

<p><b>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO</b> 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p><b>TINA HUSTON,</b></p> <p>v.</p> <p>Respondent:</p> <p><b>DOUGLAS COUNTY BOARD OF COMMISSIONERS.</b></p>	<p><b>Docket No.: 60583</b></p>
<p><b><i>AMENDED ORDER DISMISSING APPEAL</i></b></p>	

**THIS MATTER** came before the Board of Assessment Appeals on March 11, 2013, Diane M. DeVries and Amy J. Williams presiding. Petitioner, Ms. Tina Huston, appeared pro se. Respondent was represented by Robert D. Clark, Esq.

This case concerns the 2009 classification of the subject property located at 11413 E. Hilltop Rd., Parker, CO 80134 and identified by the Douglas County Schedule Nos.: R0051836 and R0343446. Respondent classified the subject as residential for tax year 2009; Petitioner is requesting agricultural classification for that year.

At the outset of the hearing, Respondent moved to dismiss this matter based on the collateral estoppel grounds. The doctrine of collateral estoppel operates to preclude claims in the subsequent proceeding by a previous proceeding where (1) previous proceeding concluded in a final judgment; (2) the subject matter of the previous and subsequent proceedings are identical; (3) the claim for relief is identical in both proceedings; and (4) the parties to the action in both proceedings are the same. *Red Junction, LLC v. Mesa County Board of Commissioners*, 174 P.3d 841, 844 (Colo. App. 2007). Respondent indicated that Petitioner has previously filed and received a final judgment pertaining to her abatement petition for the same property and for the same tax year.

Petitioner's first abatement petition was filed in 2010 and concerned the 2009 valuation of the subject. On May 10, 2011, Referee Karen Smith accepted Petitioner's request for an administrative denial of her abatement petition. Subsequently, the County Board of Commissioners adopted the Referee's decision on June 3, 2011. Petitioner did not appeal the County Board of Commissioner's decision to the Board of Assessment Appeals.

In 2011, Petitioner initiated her second abatement petition for the same subject property for tax year 2009. After a hearing on March 13, 2012, Referee Karen Smith again accepted Petitioner's request for an administrative denial of her abatement petition. On April 12, 2012, the Board of Douglas County Commissioners agreed with the Referee's decision. This appeal followed.

At the hearing, Petitioner testified that she is an equine professional running horse-breeding business on the subject property. She purchased the subject in 2007 to use as a horse farm. She has been working on obtaining an agricultural classification for her property since 2007 and was successful in obtaining the agricultural classification as of 2010 tax year. She claims that her property should have been classified as agricultural for 2009.

Petitioner also testified that her home caught on fire on April 1, 2009 and she sustained injuries to both of her arms later that same month. Petitioner indicated that she did not find out until mid-2010 that her property was valued as residential for 2009.

Respondent argued that Petitioner received timely notice of the 2009 classification of the subject property. Respondent presented to the Board a copy of a Notice of Valuation that was sent to Petitioner on May 1, 2009. The Notice of Valuation indicated that Petitioner's land was classified as residential for the 2009 tax year. Respondent also presented to the Board a copy of November 17, 2010 e-mail by Louise McElroy with the Douglas County Assessor's Office, informing Petitioner that abatement process was the correct avenue to protest classification.

The Board agrees with Respondent that this matter is subject to dismissal on collateral estoppel grounds. Petitioner's 2011 abatement petition is duplicative of her 2010 abatement petition, filed for the same property and for the same 2009 tax year. Further, the Board finds that Petitioner had adequate notice of her property being classified as residential for the 2009 tax year.

**ORDER:**

The appeal is dismissed.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado

appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

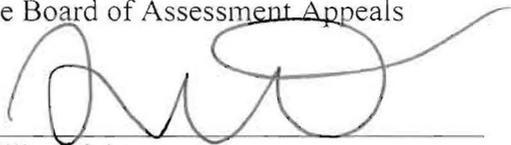
If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

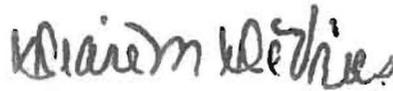
Dated this 3rd day of April, 2013.

**BOARD OF ASSESSMENT APPEALS**

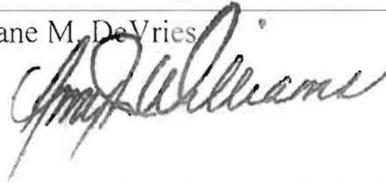
I hereby certify that this is true and correct copy of the decision of the Board of Assessment Appeals



Milla Crichton



Diane M. DeVries



Amy J. Williams

